

Office of the Secretary of the Treasury

§ 10.54

Internal Revenue Service during a period of suspension, disbarment, or ineligibility of such other person. Maintaining a partnership for the practice of law, accountancy, or other related professional service with a person who is under disbarment from practice before the Service shall be presumed to be a violation of this provision.

(i) Contemptuous conduct in connection with practice before the Internal Revenue Service, including the use of abusive language, making false accusations and statements knowing them to be false, or circulating or publishing malicious or libelous matter.

(j) Giving a false opinion, knowingly, recklessly, or through gross incompetence, including an opinion which is intentionally or recklessly misleading, or a pattern of providing incompetent opinions on questions arising under the Federal tax laws. False opinions described in this paragraph include those which reflect or result from a knowing misstatement of fact or law; from an assertion of a position known to be unwarranted under existing law; from counseling or assisting in conduct known to be illegal or fraudulent; from concealment of matters required by law to be revealed; or from conscious disregard of information indicating that material facts expressed in the tax opinion or offering material are false or misleading. For purposes of this paragraph, reckless conduct is a highly unreasonable omission or misrepresentation involving an extreme departure from the standards of ordinary care that a practitioner should observe under the circumstances. A pattern of conduct is a factor that will be taken into account in determining whether a practitioner acted knowingly, recklessly, or through gross incompetence. Gross incompetence includes conduct that reflects gross indifference, preparation which is grossly inadequate under the circumstances, and a con-

sistent failure to perform obligations to the client.

(Sec. 3, 23 Stat. 258, secs. 2-12, 60 Stat. 237 *et seq.*; 5 U.S.C. 301; 31 U.S.C. 330; 31 U.S.C. 321 (Reorg. Plan No. 26 of 1950, 15 FR 4935, 64 Stat. 1280, 3 CFR, 1949-53 Comp., p. 1017))

[31 FR 10773, Aug. 13, 1966, as amended at 35 FR 13205, Aug. 19, 1970; 42 FR 38353, July 28, 1977; 44 FR 4946, Jan. 24, 1979; 49 FR 6723, Feb. 23, 1984; 57 FR 41095, Sept. 9, 1992; 59 FR 31528, June 20, 1994]

§ 10.52 Violation of regulations.

A practitioner may be disbarred or suspended from practice before the Internal Revenue Service for any of the following:

(a) Willfully violating any of the regulations contained in this part.

(b) Recklessly or through gross incompetence (within the meaning of § 10.51(j)) violating § 10.33 or § 10.34 of this part.

[59 FR 31528, June 20, 1994]

§ 10.53 Receipt of information concerning attorney, certified public accountant, enrolled agent, or enrolled actuary.

If an officer or employee of the Internal Revenue Service has reason to believe that an attorney, certified public accountant, enrolled agent, or enrolled actuary has violated any provision of this part, or if any such officer or employee receives information to that effect, he shall promptly make a written report thereof, which report or a copy thereof shall be forwarded to the Director of Practice. If any other person has information of such violations, he may make a report thereof to the Director of Practice or to any officer or employee of the Internal Revenue Service.

[31 FR 10773, Aug. 13, 1966, as amended at 57 FR 41095, Sept. 9, 1992]

§ 10.54 Institution of proceeding.

Whenever the Director of Practice has reason to believe that any attorney, certified public accountant, enrolled agent, or enrolled actuary has violated any provision of the laws or